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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,598	08/06/2001	James Toth	MP1726-US1	1593

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TYCO ELECTRONICS CORPORATION
MAIL STOP R20/2B
307 CONSTITUTION DRIVE
MENLO PARK, CA 94025

EXAMINER

EASTHOM, KARL D

ART UNIT PAPER NUMBER

2832

DATE MAILED: 03/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/923,598

Applicant(s)

Toth et al.

Examiner

Karl Easthom

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9, 11-13, 15, 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Oo (JP 5-109505). Oo discloses the claimed invention at Figs. 1-2 with PTC element 11, electrodes 12, and lead 13 having portion 13a bent to be a barrier portion between the connection and attachment portions. Or the resin 14 is a barrier portion on the lead, which meets claims 2-4, and 13. The leads comprise metal for claim 5. In claim 7, one edge of the lead is at 90 degrees to a perpendicular edge of the other lead. In claims 9, 11, 12 the bend, wall is the barrier portion.

3. Claims 1-13, 15, and 17 are rejected under 35 U.S.C. 102(b,e) as being anticipated by Kitamoto et al. (WIPO published 1997). Kitamoto discloses the claimed invention at Fig. 1 with leads 17, 18k, PTC material 9, batteries 29 at Fig. 5, and electrodes 11, 13. In claim 10, the portion 21 is a barrier that has a cutout where in Fig. 4 one can see the thinner barrier portion has been "cutout" from the remaining wider portions of the leads. In claims 18, welding is at col. 8, lines 50-56. In claim 2, the second barrier portion is the insulation 23. In claims 3-4, the barrier portion or bent portion of 21 appears at least as high as the thickness of t for the PTC material 9. In claims 6, the orientation is along the axis from left to right. In claim 7, see Fig. 4, where the radial portion 19 of 21 is at 90 degrees to the tangent of the of the disc shaped lead 17.

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4. Claims 1-12 and 17-18 are rejected under 35 U.S.C. 102(b,e) as being anticipated by Chandler et al. Chandler discloses the claimed invention at Fig. 8 with 13, 17 the cut out barrier portion of the leads 12, 14, electrodes 7, 9, and PTC element 6. The cut out portion extends toward the opposite lead from the distal end. In claim 7, see Fig. 2, where the barrier portion 17 extends toward 13 in its thickness direction but in Fig. 1, its length direction is at 90 degrees to the disc portion of 13. In claims 18, welding is at col. 5, lines 33-38.

5. Claims 1- 4, 11-12, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Fellner et al. Fellner discloses the claimed invention where the barrier portion is 19, at least as thick as the laminar PTC element 11, meeting claims 2-3.. Or the curved portion of lead 16 bends towards the device and the opposite lead 18, with electrodes 12, 13, welded thereto.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oo (JP 5-109505), as applied to claims above, further in view of Kitamoto et al. or Chandler. The invention is as disclosed above except for welding. Kitamoto et al. discloses welding is a suitable means for electrode/lead attachment at col. 8, lines 50-59. Chandler makes a similar disclosure as

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noted above. It would have been obvious to employ the well known method of lead attachment for making a secure connection where Oo discloses attachment by any known means for a similar battery protection device at par. 8.

8. Claims 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oo (JP 5-109505), or Kitamoto et al., as applied to claims above, further in view of Banich et al. The invention is as disclosed above except for the insulation being tape. X discloses that tape is a suitable type of insulation such that it would have been obvious to replace the insulation of Oo with tape in order to apply same quickly for good well known electrical insulation.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl Easthom whose telephone number is (703)308-3306. The examiner can normally be reached on M-Th. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad, can be reached on (703)308-7619. The fax phone number for the organization where this application or proceeding is assigned is (703)308-7722. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



KARL D. EASTHOM
PRIMARY EXAMINER